

1998 LEGISLATIVE SUMMARY

Regular Session **1998 Indiana General Assembly** *Convened November 26 , 1997;* *Adjourned February 27, 1998*

IC 4 State Offices and Administration

IC 4-4-6.1-2, HB 1319, SECTION 1. Provides that the state enterprise board has the authority to make designations of locations as military base recovery sites and the availability of the military base recovery tax credit. EFFECTIVE UPON PASSAGE.

IC 6-2.1 Gross Income Tax

IC 6-2.1-3-24.5, HB 1157, SECTION 1. Changes a federal code cite for the definition of passive investment income for a small business corporation. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-2.1-5-1.1, SB 101, SECTION 31. Makes technical corrections to correct errors and blind amendments that passed during the 1997 session. EFFECTIVE JANUARY 1, 1998, (RETROACTIVE).

IC 6-2.1-6-3.1, HB 1157, SECTION 2. Makes gross income tax payment dates for withholding on non resident contractors the same dates as other corporate payment dates. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-2.5 Sales and Use Tax

IC 6-2.5-4-6, HB 1147, SECTION 1. Provides that a person is not a retail merchant making a retail transaction when the person furnishes telecommunication services to another person who is using a prepaid telephone calling card. EFFECTIVE JULY 1, 1998.

IC 6-2.5-4-13, HB 1147 SECTION 2. Provides that a person is a retail merchant making a retail transaction when the person sells a prepaid telephone calling card at retail, an authorization number at retail, a reauthorization of a prepaid telephone calling card, or the reauthorization of a prepaid telephone authorization number. EFFECTIVE JULY 1, 1998.

IC 6-3 Adjusted Gross Income Tax

IC 6-3-1-3.5, HB 1157, SECTION 3. Clarifies that the capital gain portion of a lump sum distribution is to be added back to income in determining Indiana adjusted gross income. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

C 6-3-1-11, HB 1157, SECTION 4. Adopts the provisions of the Internal Revenue Code and the Code of Federal Regulations for adjusted gross income tax as in effect on January 1, 1998. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-3-2-3.1, HB 1011, SECTION 78. Changes internal references to code cites in the adjusted gross income tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-3-4-4.1, SB 101, SECTION 32. Makes technical corrections to correct errors and blind amendments that passed during the 1997 session. EFFECTIVE JANUARY 1, 1998, (RETROACTIVE).

IC 6-3-4-6, HB 1157, SECTION 5. Clarifies that all taxpayers must notify the Department of Revenue within one hundred twenty days if there is an adjustment to income. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-3.1 Tax Credits

IC 6-3.1-11.5, HB 1319, SECTION 2. Creates the military base recovery tax credit that provides a credit of up to 25% of the qualified investment in the facility. The percentage of credit depends on when the property was initially placed in service. Provides that pass through entities are eligible for the credit. A taxpayer can also be a lessee that is assigned some part of the tax credit. The credit can be carried forward but cannot be refunded or carried back. A taxpayer that would be entitled to the credit is not entitled to the credit if the taxpayer ceases or drastically reduces operations at the military base recovery site. EFFECTIVE UPON PASSAGE.

IC 6-3.1-19, HB 1319, SECTION 3. Creates the community revitalization enhancement district tax credit. Provides a credit to a taxpayer for the investment made in a community revitalization enhancement district approved by the department of commerce before the expenditure is made. The credit is equal to 25% of the qualified investment made by the taxpayer during the taxable year. The taxpayer can assign the credit to a lessee. The credit is not refundable and cannot be carried back. Gives the Department of Revenue the authority to disallow any credit if the taxpayer ceases operations or substantially reduces its operations. EFFECTIVE JANUARY 1, 1999.

IC 6-3.5 Local Option Income Taxes

IC 6-3.5-1.1-2.5, HB 1157, SECTION 7. Allows Jackson County to impose the County Adjusted Gross Income Tax at a rate not to exceed 1.1% and dedicates the additional .1% to operate a jail and a juvenile detention center. EFFECTIVE JULY 1, 1998.

IC 6-3.5-1.1-3.5, HB 1157, SECTION 8. Allows Pulaski County to impose the County Adjusted Gross Income Tax at a rate not to exceed 1.3% and dedicates the additional .3% to operate a jail and justice center. EFFECTIVE JULY 1, 1998.

IC 6-3.5-1.1-10, HB 1157, SECTION 9. Provides that the additional CAGIT rates for Jackson and Pulaski Counties will not be considered as property taxes for purposes of CAGIT distributions. EFFECTIVE JULY 1, 1998.

IC 6-3.5-1.1-11, HB 1157, SECTION 10. Provides that the excess CAGIT distributions to Jackson and Pulaski Counties will not be considered as certified shares. EFFECTIVE JULY 1, 1998.

IC 6-3.5-7-5, HB 1157, SECTION 11. Provides that the maximum CAGIT and CEDIT rate for Jackson County cannot exceed 1.35%. Clarifies that the maximum CAGIT and CEDIT rate for Pulaski County may not exceed 1.55%. EFFECTIVE JULY 1, 1998.

IC 6-3.5-7-6, HB 1157, SECTION 12. Provides that any CEDIT rate that is increased or decreased must be adopted at one of the original imposition rates. JANUARY 1, 1998 (RETROACTIVE).

IC 6-5 Financial Institution Taxes

IC 6-5-10-1, HB 1185, SECTION 12. Changes a reference to a building and loan association to a savings association in the bank tax law. EFFECTIVE JULY 1, 1998.

IC 6-5-11-1, HB 1185, SECTION 13. Clarifies a reference to savings and loan institutions under the savings and loan institution statute. EFFECTIVE JULY 1, 1998.

IC 6-5.5-1-2, HB 1157, SECTION 13. Permits a bad debt deduction for thrifts and other small financial institutions to coincide with federal law. JANUARY 1, 1998 (RETROACTIVE).

IC 6-5.5-1-17, HB 1157, SECTION 14. Changes the Indiana Code cite to reflect a recodification of Title 28 concerning the definition of a trust company. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-6 Motor Fuel and Excise Taxes

IC 6-6-2.5-40, HB 1011, SECTION 80. Changes internal references to code cites in the special fuel tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-6-2.5-62, HB 1011, SECTION 81. Changes internal references to code cites in the special fuel tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-6-4.1-12, HB 1011, SECTION 82. Changes internal references to a code cite in the motor carrier fuel use tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-6-4.1-13, HB 1243, SECTION 1. Allows a motor carrier to obtain a repair, maintenance, and relocation permit to move a yard tractor from a terminal building or loading or spotting facility to a maintenance or repair facility, or to another loading or spotting facility, and return the yard tractor to its place of origin. The fee for this annual permit is forty dollars (\$40), and is in lieu of the motor carrier fuel use tax. EFFECTIVE JULY 1, 1998.

IC 6-6-5-9, HB 1033, SECTION 1. Provides that penalty and interest collected by the Department of Revenue in connection with delinquent auto excise taxes shall be distributed to the appropriate taxing unit after the Department of Revenue is allowed to deduct a reasonable amount to account for administrative expenses. EFFECTIVE JULY 1, 1998.

IC 6-6-6.5-1, SB 149, SECTION 1. Removes the definition of an established place of business for purposes of being a bona fide aircraft dealer. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-6-6.5-2, SB 149, SECTION 2. Provides that if a nonresident bases an aircraft in Indiana with a dealer, solely for repairing, remodeling, or refurbishing the aircraft, neither the nonresident or the dealer is required to register the aircraft. However the dealer shall report to the Department of Revenue after the end of the quarter a listing of each aircraft that was based in this state for more than sixty days. EFFECTIVE JANUARY 1, 1999.

IC 6-6-6.5-8, SB 149 SECTION 3. Provides that the seller of an aircraft has thirty-one days instead of five days to notify the Department of Revenue of the transfer of the aircraft. Requires the purchaser of an aircraft to apply to the Department of Revenue for transfer of registration within thirty-one days of the transfer. Cur-

rent law requires the application to be submitted within ten days. This section also eliminates a requirement that the seller notify the buyer on the amount of excise tax that the purchaser will be required to pay. EFFECTIVE JANUARY 1, 1999.

IC 6-6-6.5-9, SB 149, SECTION 4. Provides that an aircraft owned by a dealer for not more than five days if the ownership is part of an ultimate sale of an aircraft that will not be based in Indiana is not required to be registered in Indiana. The dealer is required to notify the Department of Revenue within thirty-one days after the ultimate sale of the aircraft. EFFECTIVE JANUARY 1, 1999.

IC 6-6-6.5-10.1, SB 149, SECTION 5. Deletes the requirement that the dealer must have an established place of business with an office and space to display at least one aircraft, along with a sign advertising the dealership. It only requires the dealer to submit information to prove that he is bona fide dealer by submitting normal business records. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-6-6.5-10.2, SB 149, SECTION 6. Requires that upon receipt of a dealer's application form and fee, the Department of Revenue shall determine if the dealer is in good standing and then issue a renewal of the dealer's certificate before December 31 of the immediately preceding year. If the renewal is not issued by December 31, the dealer's certificate remains valid until renewed or revoked by the Department of Revenue. Also provides that if a dealer's license is revoked, the dealer has 180 days to sell the dealer's inventory. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-6-6.5-10.4, SB 149, SECTION 7. Requires a transferring owner to notify the Department of Revenue within thirty-one days of the transfer. Current law requires the notification within five days. EFFECTIVE January 1, 1999.

IC 6-6-6.5-10.6, SB 149, SECTION 8. Requires that an aircraft held in inventory for more than eighteen months is no longer considered aircraft inventory and is treated as property of a non-dealer, and will be subject to sales tax and excise taxes. The taxes are due thirty-one days after the eighteen month period expires. EFFECTIVE JANUARY 1, 1999.

IC 6-7-3-14, HB 1011, SECTION 83. Changes internal references to a code cite in the controlled substance excise tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998

IC 6-7-3-20, HB 1011, SECTION 84. Changes internal references to a code cite in the controlled substance excise tax as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-8 Miscellaneous Tax Provisions

IC 6-8-11-12, HB 1185, SECTION 14. Adds a reference to savings association (replacing savings & loan associations) for purposes of being an account administrator under the medical care savings plan. EFFECTIVE JULY 1, 1998.

IC 6-8-11-19, HB 1011, SECTION 85. Changes an internal reference to a code cite in the medical care savings account provisions as a result of a recodification of Title 34. EFFECTIVE JULY 1, 1998.

IC 6-8.1 Tax Administration

IC 6-8.1-1-1, HB 1157 SECTION 15. Includes the hard cider excise tax as a listed tax. EFFECTIVE JULY 1, 1998.

IC 6-8.1-4-4, HB 1157, SECTION 16. Provides that the joint registration center is under the supervision of the motor carrier services division. Also provides that funding for the center will come from the motor carrier regulation fund. EFFECTIVE UPON PASSAGE.

IC 6-8.1-6-4.5, HB 1157, SECTION 17. Allows taxpayers to round to the nearest dollar when they are completing their annual income tax return. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).

IC 6-8.1-7-1, HB 1157, SECTION 18. Provides that the confidentiality statute does not apply to the hard cider excise tax. EFFECTIVE JULY 1, 1998.

IC 6-8.1-9-1, HB 1157, SECTION 19. Provides that a taxpayer is entitled to a refund if it results in a change in tax liability as a result of a federal modification, and allows the taxpayer six months from the date of notification to file a claim for refund. Also provides that if an agreement to extend the statute of limitations for an assessment is entered into between the taxpayer and the Department of Revenue then the period for filing a claim for refund is also extended. EFFECTIVE JANUARY 1, 1999.

IC 6-9 Innkeeper's Taxes and Other Local Taxes

IC 6-9-2-4, HB 1097, SECTION 1. Permits the Lake County convention bureau to enter into leases for the construction, acquisition and equipping of a visitor center. Also gives the bureau the power of eminent domain. EFFECTIVE UPON PASSAGE.

IC 6-9-2-4.5, HB 1097, SECTION 2. Provides that funds from the Lake County innkeepers' tax may be used to fund a visitor's center. EFFECTIVE UPON PASSAGE.

IC 6-9-2-4.7, HB 1097, SECTION 3. Provides that the Lake County convention bureau can issue bonds to fund the visitor's bureau and that the bonds will be paid from the innkeepers' tax. EFFECTIVE UPON PASSAGE.

IC 6-9-13-1, HB 1097, SECTION 6. Clarifies that the Marion County admissions tax only applies to events where tickets are offered for sale to the public by the box office of the facility, or an authorized agent of the facility. Also clarifies that an event sponsored by a political organization is exempt from the admissions tax. EFFECTIVE UPON PASSAGE.

IC 6-9-18-4, HB 1097, SECTION 7. Clarifies the dates for which bonds can be issued under the authority of the uniform innkeepers' tax, and requires the bonds to be paid from a fund established for that purpose. EFFECTIVE UPON PASSAGE.

IC 6-9-23-8, HB 1002, SECTION 8. Provides that the Allen County food and beverage tax may be used to fund the acquisition and improvement of an athletic and exhibition coliseum if the facility was in existence before January 1, 1998. EFFECTIVE JULY 1, 1998.

IC 6-9-29-1.5, HB 1157, SECTION 20. Provides that if a county adopts an ordinance to impose or change an innkeepers' tax, the tax cannot take effect until thirty days from the adoption of the ordinance and must be on the first of the month. Also requires the county fiscal body to send a copy of the ordinance to the Department of Revenue. EFFECTIVE JULY 1, 1998.

IC 7.1 Alcoholic Beverage Taxes

IC 7.1-1-3-9.5, HB 1157, SECTION 21. Defines the term hard cider for purposes of alcoholic beverage taxation. EFFECTIVE JULY 1, 1998.

IC 7.1-4-4.5, HB 1157, SECTION 24. Creates the hard cider excise tax at a rate of \$.115 per gallon. EFFECTIVE JULY 1, 1998.

IC 7.1-4-7.5, HB 1157, SECTION 25. Provides that the entire amount of the hard cider excise tax will be deposited in the state general fund. EFFECTIVE JULY 1, 1998.

IC 7.1-5-11-1.5, HB 1212, SECTION 2. Provides that it is unlawful for a person in the business of selling alcoholic beverages in another state to ship an alcoholic beverage directly to an Indiana resident who does not

hold a valid wholesaler permit in the state of Indiana. EFFECTIVE JULY 1, 1998.

IC 8-2.1 Motor Carrier Regulation

IC 8-2.1-23-1, HB 1157, SECTION 26 Provides that the motor carrier regulation fund shall be used for the purpose of funding the motor carrier services division and the motor carrier fuel use tax.. EFFECTIVE UPON PASSAGE.

IC 8-2.1-25-6, SB 4, SECTION 1. Provides that a motor bus owned by a motor carrier may be inspected by a certified third party inspector. EFFECTIVE JULY 1, 1998.

OTHER MISCELLANEOUS PROVISIONS

IC 29-1-8-3, HB 1038, SECTION 2. Provides that if the value of a decedent's gross estate does not exceed \$25,000 (current law is \$15,000), the personal representative may immediately distribute the estate to the persons entitled to it and file a closing statement of the estate. EFFECTIVE JULY 1, 1998.

IC 36-7-13-2.4, HB 1319, SECTION 5. Defines "gross retail base period amount" to mean the aggregate sales and use tax remitted by businesses operating in the community revitalization enhancement district during the fiscal year that precedes the date on which a district is designated. EFFECTIVE JULY 1, 1998.

IC 36-7-13-2.6, HB 1319, SECTION 6. Defines "gross retail incremental amount" to mean the total taxes remitted for sales and use taxes by a business during a state fiscal year minus the base period amount. EFFECTIVE JULY 1, 1998.

IC 36-7-13-3.2, HB 1319, SECTION 7. Defines "income tax base period amount" to mean the amount of state and local income taxes paid by employees in the district during the full fiscal year that precedes the date on which a district is designated. EFFECTIVE JULY 1, 1998.

IC 36-7-13-3.4, HB 1319, SECTION 8. Defines "income tax incremental amount" to mean the aggregate amount of state and local taxes paid in a fiscal year minus the income tax base period amount. EFFECTIVE JULY 1, 1998.

IC 36-7-13-13, HB 1319, SECTION 17. Provides that if a district is designated in Monroe County, the advisory commission shall submit to the Department of Revenue a complete listing of all employers in the district. Within sixty days of receipt of the resolution, the Department

of Revenue shall determine the gross retail base period amount and the income tax base period amount. EFFECTIVE JULY 1, 1998.

IC 36-7-13-14, HB 1319, SECTION 18. Requires the Department of Revenue to determine the amount of incremental income tax and the incremental gross retail amount for the previous fiscal year. EFFECTIVE JULY 1, 1998.

IC 36-7-13-15, HB 1319, SECTION 19. Requires the treasurer of state to deposit the incremental taxes amounts in a special account. Stipulates that the maximum incremental amount may not exceed \$1,000,000 per county in any state fiscal year. Requires the distribution to be made on or before the twentieth of the month. EFFECTIVE JULY 1, 1998.

NONCODE, HB 1157, SECTION 28. Repeals IC 6-2.1-6-3, which is obsolete concerning remittance of withholding of gross income tax for non resident contractors. EFFECTIVE JANUARY 1, 1998 (RETROACTIVE).